

**GOA STATE INFORMATION COMMISSION
AT PANAJI**

CORAM: Shri. M. S. Keny, State Chief Information Commissioner

Appeal No.160/SIC/2011

Shri Estevao Po,
R/o.H. No.480, Mestabhat,
Merces, Tiswadi, Goa

... Appellant.

V/s.

1. N. P. Signapurkar,
Under Secretary, (Personnel-II),
Department of Personnel,
Secretariat, Porvorim, Goa
2. The First Appellate Authority,
Jt. Secretary (G. A.)
Secretariat, Porvorim, Goa

... Respondents

Appellant absent

Adv. A. Mandrekar for appellant present.

Respondent No.1 and 2 absent.

Adv. Smt. H. Naik for Respondent No.1 present.

J U D G M E N T
(29/02/2012)

1. The Appellant, Shri Estevao Po has filed the present appeal praying that the information as requested by the appellant vide his application dated 29/3/2011 be furnished to him correctly and fully without reserving any information to save any person; that action be taken on P.I.O. Under Secretary, Personnel II, Porvorim for providing incomplete, incorrect and misleading information and inspection of records within stipulated time limit of 30 days; that penalty be imposed on the P.I.O. for not providing the information as per Sec.20 of R.T.I. Act, that disciplinary action be initiated against the P.I.O.; that compensation be granted for harassing the appellant as per sec.19 of the R.T.I. Act and that no fees be charged as per section 7(6) of the R.T.I. Act.

2. The brief facts leading to the present Appeal are as under:-

That the appellant, vide application dated 29/3/2011, sought certain information under Right to Information Act, 2005 ('R.T.I. Act' for short) from the Public Information Officer(P.I.O.)/respondent No.1. That the application dated 29/3/2011 was complete in all respect and was submitted in person. That the said application was reluctantly accepted in the office of the Under Secretary, Personnel-II. That unsatisfactory reply was received from P.I.O./respondent No.1 dated 11/4/2011 on 28/4/2011. Being not satisfied, the appellant preferred the first appeal before First Appellate Authority(FAA)/respondent No.2. That during the hearing of the first appeal on 10/6/2011, respondent No.1 furnished reply as well as part information from point No.1 to 13. That the same is very vague, inconclusive and evasive and thus the respondent No.1 has miserably failed to meet the object of R.T.I. by not providing complete and correct information as per the application. By order dated 13/6/2011, the FAA/respondent No.2 directed respondent No.1 to furnish the required information at point No.1 and 2 as per the application dated 29/3/2011. It is the case of the appellant that the unsatisfactory reply was received from P.I.O./Respondent No.1 dated 22/6/2011 in compliance with the F.A.A. order dated 13/6/2011. That the respondent No.1 has not complied with the order of F.A.A. to provide the correct and complete information within time limit specified in the order passed in the first appeal. That the P.I.O. failed to give due consideration to the order passed by the respondent No.2 being Public Authority. It is obligatory on his part to call for the information from his sub-ordinate or superiors to furnish the complete and correct information as per the application within the period specified as per law. Being aggrieved, the appellant has preferred the present appeal on various grounds as set out in the memo of appeal.

3. The respondent resists the appeal and the reply of respondent No.1 is on record. In short it is the case of the respondent No.1 that it is false that appellant is aggrieved by the reply dated 22/6/2011 of the respondent No.1. That full and correct

information has been furnished. That R.T.I. application dated 29/3/2011 was addressed to P.I.O. General Administration Department, Secretariat Porvorim or there after said application was transferred to Under Secretary Personnel/PIO. That the information sought by the appellant is in the form of queries “whether” “what”. Respondent No.1 denies that the application was reluctantly accepted. The respondent No.1 further denies that unsatisfactory reply was sent. The respondent No.1 denies contents of para 6, 7, 8 and 9 of the memo of appeal. The respondent also denies the grounds “a’ to “i” as false and misleading. It is further the case of the respondent No.1 that the relief sought by the appellant cannot be allowed as PIO has rightly furnished information to the appellant vide letter dated 11/4/2011 and the same has been acknowledged by the appellant . That vide letter dated 22/6/2011, the PIO has complied with the order of the F.A.A. and the information has been furnished in toto to the appellant. That the appellant is using tactic of harassment and unnecessary filing false application under R.T.I. According to the respondent, the application is liable to be dismissed.

4. Heard the arguments. Ld. Adv. A. Mandrekar argued on behalf of appellant and the Ld. Adv. Smt. H. Naik argued on behalf of the respondent No.1.

Advocate for the appellant referred to the facts of the case in detail. According to him information has been furnished, but it is false. He produced xerox copies of the letters. Elaborating further advocate for appellant submitted that point No.1 and 2, information furnished is incomplete and incorrect. According to him show cause notice is to be issued for furnishing incorrect, incomplete and misleading information. He next submitted that inquiry be conducted and compensation be granted and also disciplinary proceeding be initiated.

Adv. Smt. H. Naik for respondent No.1 submitted that respondent No.1 has given correct information that there is no

formal recognition given and she also submitted the notification which is general in nature and referred to the letters produced. Advocate for the respondent No.1 submitted that the same are not applicable.

5. I have carefully gone through the records of the case and also considered the arguments advanced by the parties. The point that arises for my consideration is whether the relief prayed is to be granted or not.

It is seen that by application dated 29/3/2011, the appellant sought certain information. The information consisted of three items i.e. Sr. No.1, 2 and 3. By reply dated 11/4/2011, the respondent No.1 submitted the information. This appears to be in time considering the date of application. Being not satisfied, the appellant preferred appeal before F.A.A. and by order dated 13/6/2011, the F.A.A./respondent No.2 directed the PIO to furnish specific reply to point No.1 and 2 of the application dated 29/3/2011 by the appellant. It was also observed that information as available with the P.I.O. should be furnished free of cost to the appellant within 15 days from the receipt of the order. It is seen that by order dated 22/6/2011 the P.I.O. respondent No.1 furnished the information as directed by F.A.A. Again it is seen this reply is in time. It is seen from record that information is furnished. During the course of his arguments, advocate for appellant also states that information is furnished. His only grievance is that the information i.e. furnished is incomplete, incorrect, false and misleading.

6. Advocate for appellant contends that the information is false, incorrect, incomplete. misleading etc. This is disputed by the respondent No.1. According to her, the information i.e. furnished is true and correct as available in the records of the case.

7. It is to be noted here that the purpose of the R.T.I. Act is per se to furnish information. Of course appellant has a right to

establish that information furnished to him is false, incorrect, misleading etc. but the appellant has to prove it to counter opponent's claim. The information seeker must feel that he got the true and correct information otherwise purpose of R.T.I. Act would be defeated. It is pertinent to note that mandate of R.T.I. Act is to provide information - information correct to the core and it is for the appellant to establish that what he has received is incorrect and incomplete. The approach of the Commission is to attenuate the area of secrecy as much as possible. With this view in mind, I am of the opinion that the appellant must be given an opportunity to substantiate that the information given to him is false, incorrect, misleading etc as provided in Sec.18 (1)(e) of the R.T.I. Act.

8. In view of the above, since information is furnished, no intervention of this Commission is required. The appellant should be given an opportunity to prove that the information is false, incorrect, misleading etc. Hence I pass the following order:-

ORDER

The appeal is allowed. The appellant to prove that information furnished is false, incorrect, incomplete etc.

Further inquiry posted on **12/04/2012 at 10.30 a.m.**

The appeal is accordingly disposed off.

Pronounced in the Commission on this 29th day of February, 2012.

Sd/-
(M. S. Keny)
State Chief Information
Commissioner